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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------|------------------|
| 10/711,525 | 09/23/2004 | Charles A. Haba | LC 0169 PUS | 5524 |
| 36014 | 7590 | 12/09/2005 | EXAMINER | |
| JOHN A. ARTZ ARTZ & ARTZ, P.C. 28333 TELEGRAPH ROAD, SUITE 250 SOUTHFIELD, MI 48034 | | | ESTREMSKY, GARY WAYNE | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3676 | |

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/711,525

Applicant(s)

HABA, CHARLES A.

Examiner

Gary Estremsky

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/15/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-15 and 17-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 6-15, 17-20 and 23 is/are allowed.
- 6) ☒ Claim(s) 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings received on 4/11/05 are not approved due to addition of 'new matter'. While a storage compartment 22 and its door 24 are schematically illustrated in original Fig's 1 and 2, the original disclosure does not provide adequate written description or other disclosure to fully support the structures shown in the proposed replacement drawings, notably :

storage compartment having an overhanging peripheral flange,
hinge and adjacent structure, post 38 having a hook and a base member inside of the compartment/lid,
other elements including 43,53,55,57,
the particular overhead arrangement within an automobile shown in Fig 7.

Inasmuch as a storage compartment and lid are at least schematically shown in the original Figures 1,2; it is suggested that those elements in Fig 1 for example, be surrounded by an additional 'box' element to schematically illustrate an automobile consistent with scope of claim 13 and corresponding written description.

Specification

2. The amendment filed 4/11/05 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment

shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Amendment to include written description of the new Figures is considered new matter wherever that description refers to the structures indicated above as being new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 21 and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement and second paragraph as being indefinite. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Additional limitations and structure set forth in claims 21 and 22 was not included in the original disclosure. As regards rejection under 35 USC 112, 2nd paragraph, it is not clear which structure (of the original disclosure) is being referred to. Claim 22 is further unclear how the clamp member is on the track member and the clamp member has a first end and a second end and said second end has a protrusion

which matingly engages with the same clamp member. As best understood, the subject matter of the claims was not included in the original disclosure.

Allowable Subject Matter

5. Claims 1-3, 6-15, 17-20, and 23 are allowed. Due to the nature of the rejections of claims 21 and 22, allowable subject matter can be indicated at this time.

Response to Arguments

6. Applicant's arguments with respect to new matter and rejections made under 35 USC 112, first paragraph have been fully considered but they are not persuasive.

Arguments that the proposed new drawings do not contain 'new matter', since automobiles, trunk lids, and/or hinges etc. are known in the art are not persuasive. In deciding that subject matter of an amendment is not new matter, evidence showing that the added subject matter was present in the original disclosure in the same detail as it is presented in the amendment is needed. The examiner is not objecting to the drawings or rejecting the claims on the basis the automobiles are not known. Please refer to the above grounds of objection and rejection. Argument that the subject matter was "implicit or inherent in the application as filed" without detailing where in the original disclosure, particular support for all details of the added subject matter was provided is not persuasive. Whether or not the addition of brief descriptions of the new drawings is new matter hinges on the acceptability of the new drawings as regards the drawings that are described being new matter.

While the examiner recognizes that a storage compartment and lid were shown schematically in the original disclosure, the additional details presented by the amendment are not supported by the original disclosure such that one of ordinary skill in the art would recognize that all details now appearing in the new Figures are the necessary and only embodiment of structure that was previously, only broadly disclosed by the original papers of the Application.

Argument that what is now shown in proposed replacement Fig 1 was "implicitly or inherently in the application as filed" based on the original specification stating "[t]here is a connector 38, shown in Figure 1, that is permanently attached to the compartment door 24 and that engages the push-push latch 20. In other words, neither the track member,..." combined with what is shown in original Figure 1 is not persuasive.

The new Figures contain details that were not originally shown and are not necessarily present in the thing described in the original written description. In that respect, the subject matter is not inherent or implicit in the original disclosure. Brief statements that structures and/or functional description added by amendment are known to one of ordinary skill in the art are conclusory only. Even so, whether or not such subject matter was known to one of ordinary skill in the art is off point as to whether or not it formed part of the original disclosure of the invention. It is the examiner's position that the original disclosure does not provide adequate support for one of ordinary skill the art to make and use the invention as it is set forth by claims 21

and 22. Applicant's response hasn't provided evidence that the original disclosure provides the necessary support.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Estremsky
Primary Examiner
Art Unit 3676